

**EXHIBIT 31**

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK

LEIGHTON TECHNOLOGIES, :  
 :  
Plaintiffs, :  
 :  
vs. : No. 04-CV-02496  
 :  
 :  
OBERTHUR CARD SYSTEMS, S.A., :  
OBERTHUR CARD SYSTEMS OF :  
AMERICA CORPORATION, :  
 :  
Defendants. :

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VIDEOTAPE DEPOSITION OF  
KEN THOMPSON  
VOLUME I

---

May 4, 2006

REPORTED BY: KENNETH T. BRILL, RPR, CSR 12797

ELLEN GRAUER COURT REPORTING CO. LLC  
126 East 56th Street, Fifth Floor  
New York, New York 10022  
212-750-6434  
REF: 80728

1 THOMPSON

2 did not satisfy the deliverables as agreed upon that  
3 you signed and signed up to.

4 And we're not prepared to give you the  
5 \$1,500 bonus. And then I recall -- I recall that I  
6 had a document that for him and send it to him,  
7 something like that.

8 Q. During the expiration conference, what was  
9 his tone?

10 A. I think his tone and general attitude was,  
11 you know, we just need to try some more, we just  
12 need to build some more. You know, he went, let's  
13 try some other variations, let's do this, we need  
14 more time, and we need to do this. And the other  
15 tone was -- you know, you should -- you should hire  
16 me for a longer period of time because we can do  
17 better, and we'll get -- we'll try new processes,  
18 and -- and I've done a great job, and the reason I  
19 haven't been as successful at this is because you  
20 prevented me because you didn't have tooling, or you  
21 didn't have parts, or you didn't have something  
22 else.

23 So that was the tone. It was a -- it was  
24 a -- his tone was, I can't believe that you don't  
25 think that I did a great job and deserve the \$1,500

THOMPSON

bonus.

Q. Was -- did he speak in a raised tone of voice?

A. I don't recall. I know that Keith would sometimes get agitated and in an agitated manner say something, but I don't -- I don't particularly recall --

Q. Mm-hmm.

A. -- whether the raised tone or agitated tone.

Q. You mentioned that he would come back to you and come back to you. Was that by phone call?

A. By phone call, and...

MR. J. D. JACOBS: Let's mark the next document, a letter dated May 19 from Mr. Leighton to Mr. Thompson bearing Bates number L04427. And that will be the next exhibit, 2,676.

- - -

(Whereupon the document was marked, for identification purposes, as Exhibit Number Two Thousand Six Hundred Seventy-Six.)

- - -

BY MR. J. D. JACOBS:

**EXHIBIT 32**

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

LEIGHTON TECHNOLOGIES, LLC, ) Case No.  
 )  
Plaintiff and ) 04 Civ. 02496  
 )  
Counterclaim Defendant, )  
 )  
v. )  
 )  
OBERTHUR CARD SYSTEMS, S.A., AND )  
 )  
OBERTHUR CARD SYSTEMS OF )  
 )  
AMERICA CORPORATION, )  
 )  
Defendants and )  
 )  
Counterclaim Plaintiffs )

PAGES 151 - 308; VOLUME 2

BY: CHRISTINE L. JORDAN, CSR NO. 12262

Confidential

Page 230

1           Number two, do you recall whether Leighton  
2           ever provided Indala any of the items listed under  
3           number two?

4           (The witness reviews the document.)

5           THE WITNESS: I recall that Keith Leighton  
6           did not deliver the items listed in item two or that  
7           if -- if he claimed to have, the results were not  
8           reproducible in a sufficiently -- in a -- of a  
9           sufficient quality to be called a -- a deliverable.

10          BY MR. J. JACOBS:

11          Q.    How about items under number three, did he  
12          provide Indala with the items under number three?

13          (The witness reviews the document.)

14          THE WITNESS: I do not recall Keith Leighton  
15          providing Indala the items in number three except the  
16          specifications for cassette design, mirror plate,  
17          source press pads and press plates.

18                I do recall getting some contacts from Keith  
19          Leighton and -- and buying some plates or deciding that  
20          his -- actually, probably what I really remember is  
21          that, after talking to his contacts, we decided that  
22          there really wasn't a lot of value and we went and we  
23          sourced them in other places.

24                But one of the things I think that Keith  
25          Leighton as, you know, he presented him -- represented

Motorola / Indala / Keith Leighton  
408 383 7247  
JAN 2/95 10:57 PM D34

•• Deliverables Keith Leighton to Motorola Indala for Services (re-send 3/21/95) ••

The items to be included in quote as basis for payment must include the following deliverables:

1. Materials
  - a. complete specification of all materials to include thicknesses and tolerances, chemical make-up, vendor part number, sizes  
*No documented report, Bill of Material, print, or chemical specifications supplied by Keith*
  - b. incoming inspection procedure for material  
*No documented procedure supplied by Keith*
  - c. handling and storage requirements for materials, conditioning if necessary  
*N/A*
  - d. lot traceability procedure for materials  
*N/A*
2. Process
  - a. complete processes specification for producing PVC cards at .038"  $\pm$  .004" with a surface flatness (1 side) of <0.0005" at less than 40 minutes per cycle  
*Process supplied yielded 0.046" to 0.048" at less than 40% yield for electrical and cosmetic quality*
  - b. PVC lamination process to achieve flatness or combination of PVC lamination and post-process cold lamination (or gluing) of PVC top printable layer  
*Not Attempted*
  - c. process to be developed with final outcome of using 4 cassette books, and 5-12 layers per book  
*Done*
  - d. Quality control process for documentation of lamination process on each lot with future traceability  
*N/A*
  - e. Data compiled for flatness vs. material and process used  
*Not Done*
3. Equipment / Monitoring Equipment / Test Equipment
  - a. Procedure for lamination press operation  
*No written procedure supplied by Keith*
  - b. Static discharge equipment requirement for laminated sheets  
*No requirements document supplied for Keith*
  - c. Specifications for cassette design, mirror plate w/source, press pads, and press plates  
*Some specifications supplied but process was a moving target. MI could not source over \$10,000 worth of tooling for an unstable process*
  - d. Process monitoring tooling needed for tracking of lamination performance to lot  
*N/A*
  - e. Specification and setup of test equipment on laminated product  
*Not Done*
  - f. Preventive maintenance specification for lamination equipment and tooling  
*Not Done*
4. Product

EXHIBIT 2019  
WITNESS DEAC  
CONSISTING OF 2 PAGES  
DATE 3/22/2006  
BEHMK REPORTING & VIDEO SERVICES



Motorola / Indala Ken Thompson

408 383 7941

7/12/95

3:53 PM

- a. Manufacture of ISO format card with embedded electronic RFID's to a surface flatness of 0.0005" for dye sublimation printing  
*Process given to Motorola Indala after 5 weeks of development yielded below 24% on runs of over 4,000 card sites. Evolving process, materials, and tooling did not allow sufficient time within the 4 weeks to produce a stable, or acceptable process.*
- b. Production of >10,000 cards using process, tooling, and material identified within 4 weeks along with all above items to receive bonus amount of \$1,500.00

*Process given to Motorola Indala after 5 weeks of development yielded below 24% on runs of over 4,000 card sites. Evolving process, materials, and tooling did not allow sufficient time within the 4 weeks to produce a stable, or acceptable process. Motorola Indala does not consider the 24% yield to be a "production process". Due to unstable process development, MI would not commit to >\$10,000 worth of tooling until a "production process" was identified.*

*During those 4 weeks, the laminating press was inoperable for 3 days and Keith missed a total of 2.5 days of work. \$1,500 was issued to Keith for the 5th week of work. \$375 was issued to Keith on P.O. #950747 dated 6/22.*

Signed: Keith Leighton

Date:

Ken Thompson

Date:

**EXHIBIT 33**

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK

LEIGHTON TECHNOLOGIES, :  
 :  
Plaintiffs, :  
 :  
vs. : No. 04-CV-02496  
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OBERTHUR CARD SYSTEMS, S.A., :  
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1 THOMPSON

2 increase the yields, improve the yields?

3 And I think Jean-Marc and my response was  
4 we don't think so, based upon his performance and  
5 documentation efforts, and style of working, his  
6 deduction abilities, is just inadequate and sub par  
7 from what we need it to be. And I think our general  
8 manager, or my boss then said, or I said, I'll --  
9 I'll dedicate a lot of my time to -- to -- to  
10 improving this and making it better.

11 And, in fact, that's why I have the  
12 process logs that started on May 1st.  
13 Mr. Leighton didn't produce any quality  
14 documentation at all about the processes and  
15 parameters he was using.

16 He would run things, make decisions and  
17 run something different. And Mr. Delbecq and I  
18 would talk to him and say, well, why did you do  
19 this, and how did you draw the conclusion that you  
20 should be doing this particular variation of process  
21 next? And -- and he was not following what we  
22 considered to be good, logical -- or making good  
23 decisions, I should say.

24 Q. What happened after the termination  
25 conference with Mr. Leighton?

1 THOMPSON

2 Q. Yeah.

3 A. He wasn't there the whole time, but  
4 approximately five weeks.

5 Q. Five weeks of working time is what I  
6 really was referring to.

7 A. Yes. Yes.

8 Q. Can you identify what contributions, if  
9 any, Leighton made to the process that existed at  
10 Indala on the day he walked into Indala?

11 A. Yeah, sure.

12 Q. Let me rephrase the question, because it  
13 doesn't make sense.

14 Can you identify what contributions  
15 Leighton's -- Leighton made to the process he found  
16 at Indala on the day he walked in?

17 MR. B. JACOBS: From the time he started  
18 to the time he ended, basically?

19 MR. J. D. JACOBS: Exactly.

20 MR. B. JACOBS: Okay.

21 THE WITNESS: When it comes to the process  
22 of lamination, I -- I can't readily identify any  
23 contribution, other than solidifying some things  
24 that we were pretty sure about but weren't  
25 completely sure about.

1 THOMPSON

2 So from a process standpoint, there's  
3 nothing that I can hang my hat on that says, yep,  
4 this is a thing that he contributed to from a  
5 process standpoint. He did have other contributions  
6 other than process.

7 BY MR. J. D. JACOBS:

8 Q. And what were they?

9 A. Just a general handling of sheets, how you  
10 handle sheets, for print sheets, the care you have  
11 to take to not contaminate them. Some of the tricks  
12 for -- to reduce the static electricity, to reduce  
13 the scratching in handling for sheets. Tooling  
14 suppliers for lamination plates, for material  
15 suppliers who can make us PVC at the thicknesses we  
16 desired.

17 He -- he verified a lot of lamination  
18 processes that didn't work, so we knew not to try  
19 them again. So there were a lot of process -- a lot  
20 of contributions other than the process knowledge  
21 that he contributed towards.

22 Q. Did he, in any way contribute to or change  
23 the structure of the product itself?

24 A. He recommended some material changes, but  
25 we didn't necessarily see those material changes

**EXHIBIT 34**

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK

LEIGHTON TECHNOLOGIES, LLC, )

plaintiff, )

vs. )

Case No.

) 04 Civ. 02496 (CM)

OBERTHUR CARD SYSTEMS, S.A. )

and OBERTHUR CARD SYSTEMS )

OF AMERICA CORP., )

defendants. )

(Volume III - pages 522 through 875)

Continued videotaped deposition of  
KEITH LEIGHTON, a witness herein, called by the  
defendants as if upon cross-examination, and  
taken before David J. Collier, RPR, Notary  
Public within and for the State of Ohio,  
pursuant to Notice of Deposition and pursuant to  
the further stipulations of counsel herein  
contained, on Monday, the 23rd day of October,  
2006 at 8:02 a.m., at the offices of Tackla &  
Associates, 1020 Ohio Savings Plaza, City of  
Cleveland, County of Cuyahoga and the State of  
Ohio.

**Tackla**  
**& Associates**

Court Reporting & Videotaping

1020 Ohio Savings Plaza  
1801 E. Ninth Street  
Cleveland, Ohio 44114

216-241-3918 • Fax 216-241-3935



1 A No. No.

2 Q Did they have any presses?

3 A Printing presses, that's strictly it.

4 Q That's not a laminating press?

5 A No.

6 Q Did you -- did you have a -- you didn't  
7 have a laminating press at home, did you?

8 A No.

9 Q Okay. Did you have access to a lamination  
10 press from May 5th of '95, when you stopped  
11 working for Motorola, to when the -- your  
12 provisional patent application was filed?

13 A No, I wasn't doing any card work at all.

14 Q You weren't doing any experiments or tests?

15 A No, until I went to -- back to 2B System to  
16 make the Mifare and Hitag cards.

17 Q But that was after October of '95, right?

18 A Yes.

19 Q That was in -- sometime in '96.

20 A Correct.

21 Q Okay. So it's fair to say that after you  
22 left Motorola and continuing over the next  
23 couple of months to think about the problems and  
24 issues that arose, you came up with the idea  
25 that led to your patents?

1 A Yes.

2 Q And that --

3 A That's correct.

4 Q And that was for a process and a method for  
5 making a laminated card with an embedded  
6 electronic element --

7 A Correct.

8 Q -- that wouldn't be damaged during the  
9 lamination process.

10 A Correct.

11 Q Thin enough to meet ISO standards.

12 A Yes.

13 Q Okay. And how did you come up with the  
14 temperatures and pressures that would be used  
15 during that process?

16 A After I left Motorola, there's a company  
17 out in Newcomerstown, Ohio that had PVC extended  
18 life plastic, it was a homopolymer and  
19 copolymer. By using that type of PVC, I could  
20 come up to higher temperatures without yellowing  
21 the plastic, and I was able to go to  
22 temperatures that I couldn't go at Motorola, and  
23 I made some tests there at CSI to make this  
24 card.

25 Let me back up here. I made some

1 tests there of lamination. At the same time I  
2 received some electronics from Micron, both  
3 Mifare and Hitag. I manufactured both Hitag and  
4 Mifare on the same sheets, same core sheets.

5 Q Okay. But -- but everything you're talking  
6 about occurred after the beginning of '96,  
7 right?

8 A Correct.

9 Q Okay.

10 A The first part of '96 --

11 Q Okay.

12 A -- I was out there.

13 Q Yeah. I want to -- I want to talk about as  
14 of the time you filed your provisional patent  
15 application.

16 A Um-hum.

17 Q What did you have in mind in terms of  
18 temperatures and pressures at which the  
19 operation -- process would occur? Did you have  
20 any temperatures or pressures in mind?

21 A I knew I had to flow the plastic. I didn't  
22 know the temperatures that I would be going to  
23 because I didn't have the plastic core sheets  
24 set yet.

25 Q Okay. How about the pressures, did you

1 know what pressures you would use?

2 A I knew I would use a zero pressure.

3 Q Zero pressure when?

4 A In the heat cycle.

5 Q Okay. Zero pressure throughout the heat  
6 cycle?

7 A No.

8 Q When in the heat cycle?

9 A I would bring it up to a first period of  
10 time of heating the core before pressure. After  
11 the first period of time then I would increase  
12 the pressure on that cycle. That's something I  
13 couldn't do at Motorola.

14 Q What else in terms of process steps did you  
15 think of?

16 A I made a core pre-lam containing the  
17 electronics.

18 Q I'm sorry. I'm trying to -- I'm trying to  
19 cover what you did from the time you left  
20 Motorola to when your provisional patent  
21 application was filed, just that window of time.

22 A Oh, okay. Then I'm not in manufacturing of  
23 cards.

24 Q Okay.

25 A You asked me what was the next step.

1 Q Okay. No, I understand. I'm sorry for the  
2 confusion.

3 At the time you filed your provisional  
4 application, okay, back in 1995 --

5 A Correct.

6 Q -- what in your mind was the state of your  
7 invention?

8 MR. GUTKIN: Object to form.

9 A It was --

10 MR. GUTKIN: You can answer.

11 A It was strictly a provisional in writing  
12 only.

13 Q Okay. And what at that point in time in  
14 your mind had you fixed in terms of what the  
15 invention was? I'm not trying to hold you to a  
16 legal definition, I just want to know what your  
17 memory was at the time of what your invention  
18 was when you filed your provisional patent  
19 application.

20 A I had in mind of making a thin ISO standard  
21 card, and to achieve that and put printing on  
22 it, I printed on the pre-lam, thus eliminating  
23 14 thousandths of plastic.

24 Q Okay. And anything else come to mind at  
25 the time that you filed your provisional

1 application as to how you would achieve that?

2 A By making a -- the pre-lam, I went to a  
3 place where I was familiar with the laminator  
4 because I did a lot of modifications on that  
5 laminator.

6 Q Right.

7 A CSI happened to be formerly 2B Systems.

8 Q Okay.

9 A I was familiar with the equipment. And by  
10 making my first test, I used the top platen of  
11 that laminator where I knew I could -- I could  
12 bring it to a touch with the pads in it not  
13 crushing but touching the plates, where I could  
14 have heat from the top and heat from the bottom  
15 with zero pressure --

16 Q Okay.

17 A -- on the chip.

18 Q And is that -- is that something that  
19 occurred to you before you filed your  
20 provisional application, of course, that  
21 applying heat with no pressure?

22 A Yes.

23 Q And that was after you left Motorola?

24 A Yes.

25 Q And that just came into your head without

1 any experimental work?

2 A I had help. God was with me.

3 Q Okay. And what else --

4 A This idea come from the Lord, I'll tell  
5 you.

6 Q What other -- what other process steps did  
7 you come up with prior to when your provisional  
8 patent application was filed? Did you think  
9 about applying an increased pressure during the  
10 cooling phase?

11 A I wrote it all out on two pages in  
12 ballpoint ink and then I didn't vary from  
13 that --

14 Q Okay.

15 A -- in making my --

16 Q Okay.

17 A -- card. I stuck to that.

18 Q Let's take -- let's take a break for lunch  
19 and then we'll talk about that.

20 BY MR. DeFRANCO:

21 Q Okay. Mr. Leighton, before we took a lunch  
22 break you mentioned a two page document that you  
23 had jotted down on a pad some of your  
24 thoughts --

25 A Right.

**EXHIBIT 35**



IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK

- - - - -  
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plaintiff, )

vs. )

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defendants. )

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(Volume III - pages 522 through 875)  
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pursuant to Notice of Deposition and pursuant to  
the further stipulations of counsel herein  
contained, on Monday, the 23rd day of October,  
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Ohio.

**Tackla**  
**& Associates**  
Court Reporting & Videotaping

1020 Ohio Savings Plaza  
1801 E. Ninth Street  
Cleveland, Ohio 44114  
216-241-3918 • Fax 216-241-3935

1 Q Okay. No, I understand. I'm sorry for the  
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9 A I was familiar with the equipment. And by  
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11 that laminator where I knew I could -- I could  
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14 have heat from the top and heat from the bottom  
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16 Q Okay.

17 A -- on the chip.

18 Q And is that -- is that something that  
19 occurred to you before you filed your  
20 provisional application, of course, that  
21 applying heat with no pressure?

22 A Yes.

23 Q And that was after you left Motorola?

24 A Yes.

25 Q And that just came into your head without

**EXHIBIT 36**

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FOR THE SOUTHERN DISTRICT OF NEW YORK

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Plaintiffs, :  
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vs. : No. 04-CV-02496  
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OBERTHUR CARD SYSTEMS, S.A., :  
OBERTHUR CARD SYSTEMS OF :  
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Defendants. :

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May 4, 2006

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212-750-6434  
REF: 80728

1 THOMPSON

2 A. Yes.

3 Q. Were the coils, in fact, there?

4 A. Yeah, yeah.

5 Q. You did have the coils?

6 A. Yes, but I wasn't going to give them to  
7 him, because they were cost -- the coils and  
8 module -- when he says coils, he really means the  
9 coils and modules. They cost about maybe \$2 apiece.  
10 And at 20 percent yield, I couldn't be giving him  
11 50,000 -- a hundred thousand dollars worth of  
12 materials to produce 10,000 good cards.

13 Q. Was it -- was the fact that he did not  
14 produce ten thousand cards the only reason why he  
15 did not get the bonus?

16 A. No.

17 Q. There were other reasons also?

18 A. Oh, yes. And I believe those other  
19 reasons were -- were in the deliverables document  
20 which you gave me before.

21 MR. J. D. JACOBS: Let's mark as the next  
22 document, to move this along -- and in fact as the  
23 next two documents, as Exhibit 2,677, a document  
24 bearing Bates number L04428, a letter from  
25 Mr. Thompson to Mr. Leighton.

1 THOMPSON

2 assistance, being extra body and hands, a technical  
3 expert, so to speak, or -- that's more skilled in  
4 card lamination.

5 Q. Were there any manufacturing problems at  
6 that point in time, relating to your work?

7 A. Yields, yields were the largest issue.

8 Q. What were your yields before Mr. Leighton  
9 came on, approximately?

10 A. About 20 percent.

11 Q. So he really didn't change in one  
12 direction or another the yields during his time  
13 there?

14 A. Unh-unh.

15 THE COURT REPORTER: I'm sorry?

16 THE WITNESS: No. No, he didn't.

17 BY MR. B. JACOBS:

18 Q. Let's take a look at 2,668, which is the  
19 letter that you sent to Mr. Leighton in February and  
20 then resent to him in March.

21 A. Okay.

22 Q. You say in the -- in the first sentence of  
23 the second paragraph, "We have confidence that you  
24 can lead our efforts in making flat printable  
25 cards."

1 THOMPSON

2 justifiable need to be greater than 95 percent.

3 Q. But in this instance, because of the  
4 complexity of laminating the cards, something in the  
5 30 to 40 percent range, at least in that timeframe?

6 A. The business --

7 MR. J. D. JACOBS: Objection. No, you can  
8 answer.

9 THE WITNESS: Okay. The business need to  
10 deliver product to -- a commitment to a customer was  
11 the most important thing. So we were willing to  
12 sacrifice to -- to meet that very important customer  
13 deliverable.

14 The 95 percent was, I put on there,  
15 typical, is I was very concerned that Mr. Leighton,  
16 we would get into a discussion of what is an  
17 acceptable yield.

18 BY MR. B. JACOBS:

19 Q. And if he had asked you that, you would  
20 have told him 35 to 40 percent in this instance?

21 MR. J. D. JACOBS: Objection.

22 BY MR. B. JACOBS:

23 Q. Do you recall?

24 A. I recall us speaking about that, and I  
25 believe the yields that we had in our AVC-131s were



1 THOMPSON

2 about 70 percent, 60, 70 percent. So it wasn't real  
3 high, you know, none of the --

4 Q. Mm-hmm.

5 A. -- processes were that refined. I  
6 specifically did not put yield targets in the  
7 deliverables, because I wanted to make sure that he  
8 could achieve, you know, the deliverables.

9 Q. But you put volume targets?

10 A. I put a volume target along with other  
11 things for a bonus, not for the deliverables.

12 Q. But you would agree that in order to -- to  
13 meet the volume target, you would have to do so with  
14 acceptable yield, or else it just wouldn't make  
15 business sense; right?

16 MR. J. D. JACOBS: Objection.

17 THE WITNESS: Could you re -- say that  
18 again, please.

19 BY MR. B. JACOBS:

20 Q. Sure. I think that the target was ten  
21 thousand cards. Say the --

22 A. Yes.

23 Q. -- target was ten thousand cards. Okay?  
24 In order to achieve that goal, you're going to have  
25 to do so with an acceptable yield, or else it makes

**EXHIBIT 37**

LEXSTAT 35 U.S.C. SECTION 261

UNITED STATES CODE SERVICE  
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\*\*\* CURRENT THROUGH P.L. 109-481, APPROVED 1/12/2007 \*\*\*  
\*\*\* WITH GAPS OF 109-476 THROUGH 109-480 \*\*\*

TITLE 35. PATENTS  
PART III. PATENTS AND PROTECTION OF PATENT RIGHTS  
CHAPTER 26. OWNERSHIP AND ASSIGNMENT

**Go to Code Archive Directory for this Jurisdiction**

*35 USCS § 261*

§ 261. Ownership; assignment

Subject to the provisions of this *title* [35 USCS § § 1 et seq.], patents shall have the attributes of personal property.

Applications for patent, patents, or any interest therein, shall be assignable in law by an instrument in writing. The applicant, patentee, or his assigns or legal representatives may in like manner grant and convey an exclusive right under his application for patent, or patents, to the whole or any specified part of the United States.

A certificate of acknowledgment under the hand and official seal of a person authorized to administer oaths within the United States, or, in a foreign country, of a diplomatic or consular officer of the United States or an officer authorized to administer oaths whose authority is proved by a certificate of a diplomatic or consular officer of the United States, or apostille of an official designated by a foreign country which, by treaty or convention, accords like effect to apostilles of designated officials in the United States, shall be prima facie evidence of the execution of an assignment, grant or conveyance of a patent or application for patent.

An assignment, grant or conveyance shall be void as against any subsequent purchaser or mortgagee for a valuable consideration, without notice, unless it is recorded in the Patent and Trademark Office within three months from its date or prior to the date of such subsequent purchase or mortgage.

**HISTORY:**

(July 19, 1952, ch 950, § 1, 66 Stat. 810; Jan. 2, 1975, P.L. 93-596, § 1, 88 Stat. 1949; Aug. 27, 1982, P.L. 97-247, § 14(b), 96 Stat. 321.)

**HISTORY; ANCILLARY LAWS AND DIRECTIVES**

Prior law and revision:

Based on 35 U.S.C., 1946 ed., § 47 (R. S. § 4898; Mar. 3, 1897, ch. 391, § 5, 29 Stat 93; Feb. 18, 1922, ch. 58 § 6, 42 Stat. 391; Aug. 18, 1941, ch. 370, 55 Stat. 634).

The first paragraph is new but is declaratory only. The second paragraph is the same as in the corresponding section of existing statute. The third paragraph is from the existing statute, a specific reference to another statute is omitted. The fourth paragraph is the same as the existing statute but language has been changed.

**EXHIBIT 38**

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK

- - - - -  
LEIGHTON TECHNOLOGIES, LLC, )  
                                  ) plaintiff,                    )  
                                  ) vs.                                    )  
                                  ) Case No.                                    )  
                                  ) 04 Civ. 02496 (CM)                                    )  
OBERTHUR CARD SYSTEMS, S.A. )  
and OBERTHUR CARD SYSTEMS    )  
OF AMERICA CORP.,                )  
                                  ) defendants.                    )

- - - - -  
(Volume III - pages 522 through 875)  
- - - - -

Continued videotaped deposition of  
KEITH LEIGHTON, a witness herein, called by the  
defendants as if upon cross-examination, and  
taken before David J. Collier, RPR, Notary  
Public within and for the State of Ohio,  
pursuant to Notice of Deposition and pursuant to  
the further stipulations of counsel herein  
contained, on Monday, the 23rd day of October,  
2006 at 8:02 a.m., at the offices of Tackla &  
Associates, 1020 Ohio Savings Plaza, City of  
Cleveland, County of Cuyahoga and the State of  
Ohio.

**Tackla**  
**& Associates**

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Cleveland, Ohio 44114  
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1 gel or some other protective coating, do you  
2 call it something else?

3 A I don't know what they would call it.

4 Q Okay.

5 A Every manufacturer has their own process --

6 Q Okay.

7 A -- of making cards.

8 Q So for the Motorola process, you'd call  
9 it -- you'd call it the inlay that was enclosed  
10 in a gel?

11 A That's what they were using at the time I  
12 went out there.

13 Q Okay. At the time that you -- is that the  
14 first time, when you saw that Motorola card,  
15 that you ever saw an electronic element  
16 incorporated in a laminated card?

17 MR. GUTKIN: Object to form.

18 A I can't recall if that's the first time. I  
19 might have seen a contact chip, which would be  
20 the same type.

21 Q Okay. I think at one of your earlier  
22 depositions you said you hadn't seen an  
23 electronic element laminated in a card before  
24 you started working at Motorola.

25 A That would be correct. You asked me if I

1 had seen an electronic element before --

2 Q Okay.

3 A -- not laminated in a card.

4 Q Not laminated. Okay.

5 Other than an electronic element, had  
6 you worked with anything that had been laminated  
7 in a card prior to your work for Motorola?

8 A Other than an electronic element?

9 Q Yes.

10 A I put a metallic foil --

11 Q Okay.

12 A -- in a card.

13 Q That was a layer of metallic foil?

14 A Yes. It was a gold called -- Crown Leaf  
15 was the manufacturer, they made material for  
16 holograms --

17 Q Okay.

18 A -- they make --

19 Q And what was the purpose of that gold foil  
20 layer?

21 A That was given to me while I worked out at  
22 Cardtech --

23 Q Okay.

24 A -- now called G & D or Giesecke & Devrient.

25 Q And what was the purpose of that?

**EXHIBIT 39**



IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK

- - - - -  
LEIGHTON TECHNOLOGIES, LLC, )

plaintiff, )

vs. )

Case No.

) 04 Civ. 02496 (CM)

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and OBERTHUR CARD SYSTEMS )

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Cleveland, Ohio 44114

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1 last -- at your other deposition.

2 A Yes.

3 Q Anything else, anything else you'd  
4 laminated in cards prior to coming to Motorola?

5 A No.

6 Q Now, the gold --

7 A Not to my recollection. I mean --

8 Q The gold or metal foil, those didn't have  
9 any -- weren't connected to any chips, is that  
10 right, the one that you just mentioned?

11 A No. No.

12 Q There was no electricity running through --

13 A It was not an electronic thing, although I  
14 think it could be, some day be an electronic  
15 element.

16 Q I'm sorry. That one you're going to have  
17 to explain to me. I thought the layer, the gold  
18 or silver layer, was for decorative purposes; is  
19 that right?

20 A That's the purpose that I was using it for,  
21 but it could be used as a antenna.

22 Q Okay. Was it used as an antenna at the  
23 time?

24 A Not at the time that I made the card. It  
25 was a promotional card. I could show you that

1 card if you'd like to see it.

2 Q Yeah, I'd like to see it. I mean, was  
3 it -- do you have it here?

4 A Yes, I do --

5 Q Great.

6 A -- if I can pull it out here.

7 I made this at Cardtech.

8 Q Okay. And this has a gold or silver layer  
9 in it?

10 A That has a silver layer.

11 Q And is it -- is it colored also, the silver  
12 layer? What's the blue color? Is that --

13 A The blue color is printing on top of the  
14 crown leaf foil --

15 Q Okay. And --

16 A -- after I placed a sandwich of adhesives  
17 and --

18 Q Okay. About how thin is that silver layer  
19 on this card?

20 A I'm not sure. I forget that.

21 Q Okay. But approximately, you have some  
22 idea about how thin it is, right?

23 A Maybe 2 thousandths, maybe 3 thousandths,  
24 I'm not sure.

25 Q Which is probably thinner than a head of

1 hair?

2 A Yes.

3 Q Is that right?

4 A Right.

5 Q Okay. And you said you could envision this  
6 being used -- such a layer being used as an  
7 antenna some day?

8 A I envision that now. At the time I made  
9 the card I wasn't thinking of that.

10 Q Okay. You weren't thinking of this as an  
11 antenna?

12 A No.

13 Q All right. Did you -- did there come a  
14 time when you thought of this -- such a layer  
15 being used as an antenna?

16 A Yes.

17 Q When was that?

18 A After I started making and doing research  
19 on making contactless labels.

20 Q When was that?

21 MR. TACKLA: Two minutes of  
22 tape.

23 A I'd say about year 1996 maybe.

24 Q Okay. After -- after you filed your first  
25 provisional patent application?

**EXHIBIT 40**

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK

- - - - -  
LEIGHTON TECHNOLOGIES, LLC, )

plaintiff, )

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Case No.

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1 improve -- they wanted a list of materials that  
2 I could bring to them to help them facilitate  
3 the manufacture of their cards.

4 Q Okay. But going beyond at the time that  
5 you were hired, at some point did you enter into  
6 a contract with Motorola where you agreed to  
7 assign any inventions that you came up with as a  
8 result of your work for them?

9 A Not at the time.

10 Q Well, at any point did you sign -- enter  
11 into such an agreement?

12 A I signed a confidentiality agreement after  
13 I was there and I was working for a period of  
14 time, and I forget how long that period of time  
15 was, and they came to me and they said, oops, we  
16 were supposed to have you sign this.

17 Q Okay. And did you at some point sign the  
18 confidentiality agreement?

19 A Yes, I did.

20 Q And --

21 A They didn't sign it.

22 Q You never saw a signed copy on their part?

23 A No.

24 Q You never received a signed copy --

25 A No.

1 Q -- from Motorola?

2 A They just brought it in to me, asked me to  
3 sign the document, and I believe they asked me  
4 to backdate it because they were supposed to  
5 give that to me before I started work. I copied  
6 that document before I handed it back to them,  
7 and I never received back a signed copy from  
8 them.

9 Q All right. Well, let's -- let's break that  
10 down a little bit.

11 Once you signed that agreement with  
12 Motorola, was it your understanding at the time  
13 that as of at least that point you were under an  
14 obligation to assign whatever work came  
15 afterward to Motorola that you had done based on  
16 your consulting relationship with them?

17 A No, I believe it stated in that contract  
18 that I would assign while working for Motorola  
19 any ideas that I had that would be a patentable  
20 idea --

21 Q Okay.

22 A -- during that employment period.

23 Q Well, explain to us in a little more  
24 detail, if you would, what your understanding  
25 was exactly. When you say "while working for